

STATE OF MAINE

AROOSTOOK, SS.

SUPREME JUDICIAL COURT
SITTING AS THE LAW COURT
DOCKET #: ARO-15-638

STATE OF MAINE
APPELLEE

V.

CHAD LAGASSE
APPELLANT

ON APPEAL FROM THE SUPERIOR COURT

AROOSTOOK COUNTY

****BRIEF OF APPELLEE****

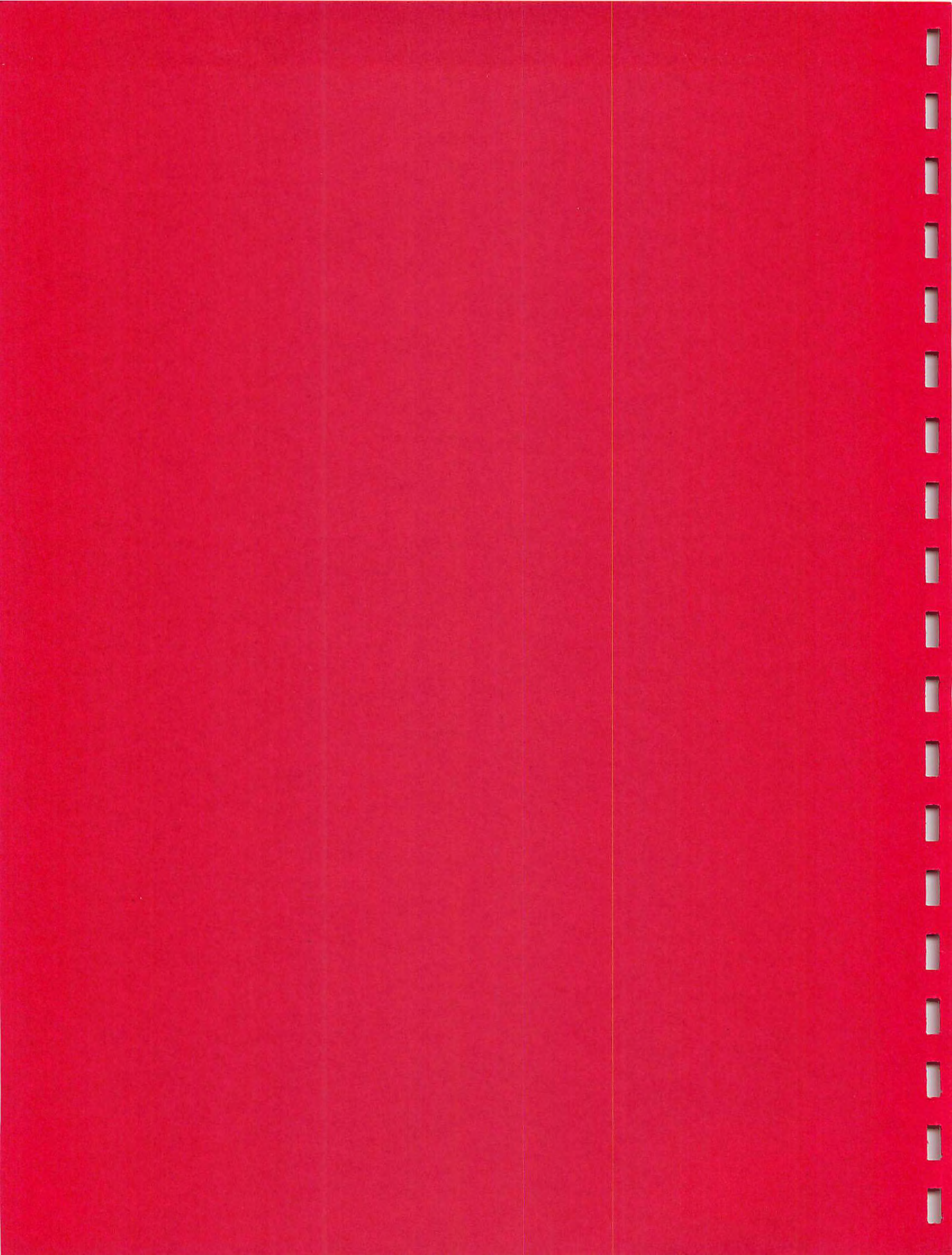
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TABLE OF AUTHORITIES

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Statutes:

17-A MRSA § 15(1) (A) (2)	1, 3
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Statement of Facts and of Procedural History

The Appellee accepts the Superior Court's recitation and findings of fact as they appear in the Appellant's appendix, pages 33-36, as being supported by the testimony and does not challenge those findings of fact.

In its brief, the Appellant points to testimony elicited and evidence presented at the trial in order to challenge the Motion Court's *pretrial* refusal to suppress evidence. The Appellee asserts that only the evidence elicited at the Motion to Suppress hearing may be appropriately considered in this appeal when reviewing the Motion Court's finding of probable cause.

Issue Presented

Whether law enforcement officers possessed probable cause to arrest the defendant as an accomplice to an armed robbery without a warrant pursuant to 17-A MRSA § 15(1) (A) (2)?

Argument

Law enforcement officers were well within the appropriate bounds of the Fourth Amendment when they stopped the defendant's car to arrest him as an accomplice to an armed robbery.

Probable cause to arrest may be based on the collective information of the police at the time of the arrest, not just on the personal knowledge of the arresting officer. State v. Carr, 1997 ME 221. Probable cause to arrest exists when "facts and circumstances of which the arresting officer has reasonably trustworthy information would warrant an ordinarily prudent and cautious officer to believe the subject did commit or was committing a crime." State v. Bolduc, 1998 ME 225 ¶7.

The basis for the probable cause determination of the Caribou police officers is the information given by the victim of the robbery who identified two gun-wielding invaders – one of whom she positively identified as Eric Mowatt – and the statements of Eric Mowatt, which positively identified the Appellant as the second armed assailant in the home invasion and robbery.

Courts have held that an informant's statement against his own interest is, by itself, sufficient to establish the credibility of the person as an informant. In State v. Knowlton, 489 A.2d 529 (Me. 1985), an informant's admission that he had used cocaine with defendant and had bought cocaine from defendant helped establish probable cause and were deemed "credible" observations by the informant. At Footnote 1, the Court said, "Actions by an informant against his penal interest 'may justify an affiant's reasonable belief of credibility of the informant's story', and therefore also serve to corroborate and reinforce the underlying factual assertions." See also, State v. Appleton, 297 A.2d 363 (Me. 1972). This Court in Appleton (at, 369) stated: "However, the informant's delivery of the methamphetamine to the officer-affiant on the same day of his asserted purchase of the same from the defendant's apartment carries inherent credibility value of some probative force in that such action in and of itself involved him in the commission of crime, since his possession of the narcotic contraband was a criminal offense. An informant is not likely to turn over to the police such criminal evidence unless he is certain in his own mind that his story implicating the persons occupying the premises where the sale took place will withstand police scrutiny."

The rule in Maine, going back to 1850, is that the unsupported and uncorroborated testimony of an accomplice is a sufficient basis for a criminal conviction. "The Maine rule that conviction may be had upon the unsupported testimony of a particeps criminis appears to have been first pronounced by Shepley, C. J., in State v. Cunningham, 31 Me. 355 (1850). The rule was examined in Sinclair v. Jackson, 47 Me. 102 (1860), and later extensively discussed in State v. Morey, 126 Me. 323, 138 A. 474 (1927). More recently in State v. James, 161 Me. 17, 206 A.2d 410 (1965), this Court again

examined and approved the Maine rule. As recently as January, 1972, this Court again in State v. Jewell reasserted the viability of the firmly established and well entrenched rule adopted so long ago. Me., 285 A.2d 847 (1972).” State v. Smith, 312 A.2d 187, 188 (Me. 1973). It follows that if a conviction is sufficiently proven beyond a reasonable doubt when it is based on the testimony of an accomplice, then a determination of probable cause must also be sufficient when based on the same quality of evidence and accomplice testimony.

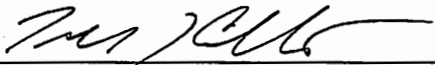
17-A M.R.S. §15 (1)(A)(2) provides that a law enforcement officer may arrest without a warrant on probable cause that the person has committed a Class A, B or C crime. “Given facts supportive of probable cause to arrest, no arrest warrant was required in the instant case, whether the officers believed that [the defendant] had actually participated in the commission of the burglary and was fleeing with the stolen property, a Class C crime (17-A M.R.S.A. s 15(1)(A)(2)), or whether they believed he was committing in their presence the crime of theft of the Class E variety (Id. § 15(1) (B)).” State v. Rand, 430 A.2d 808, 820 (Me. 1981).

Because, as the Motion Court deemed in its facts and findings, law enforcement possessed probable cause to arrest the Appellant for a Robbery and a Felony Theft, no warrant was necessary to effectuate that arrest.

CONCLUSION

The trial court properly denied the defendant’s Motion to Suppress Evidence. The holding of the lower court should be upheld.

4/25/16
Date



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CERTIFICATION OF SERVICE

I hereby certify that 2 copies of the foregoing Brief for Appellee have been forwarded this date to Christopher Coleman, Counsel for the Appellant.

4/29/16
Date

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